

Ordinance No. 123031

Council Bill No. 116561

AN ORDINANCE related to the City's computer software; removing a budget proviso that restricts an appropriation in the 2009 Adopted Budget of the Department of Information Technology (DoIT); authorizing expenditure of the appropriation for software licenses and related expenses for an e-mail archiving system; and establishing principles for system operations.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: \_\_\_\_\_

*Bruce C. Hewell*

Councilmember

Committee Action: Ⓢ LM

7/1/09 BH, RC

PASSED AS AMENDED AYE

CF No. \_\_\_\_\_

Date Introduced:	<u>6-15-09</u>	
Date 1st Referred:	To: (committee)	
<u>6-15-09</u>	<u>ETC</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
<u>7-6-09</u>	<u>9-0</u>	
Date Presented to Mayor:	Date Approved:	
<u>7-6-09</u>	<u>7-14-09</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
<u>7-14-09</u>	<u>S</u>	
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

7-6-09 Passed 9-0

This file is complete and ready for presentation to Full Council. Committee: \_\_\_\_\_ (initial/date)

Law Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed

*211*



1 department's email, preserve the privacy of sensitive records, and install appropriate  
2 security measures; and

3 WHEREAS, DoIT and the Law Department, in cooperation with the City Clerk's Office and  
4 the Legislative Department's information technology staff, will present Council with a  
5 plan that incorporates operating protocols, once they are developed, that are specifically  
6 adapted to the future e-mail archiving system; NOW, THEREFORE,

7 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

8 Section 1. It is hereby determined and declared that DoIT and the City Attorney's Office  
9 have been keeping the City Clerk's Office and the Legislative Department's information  
10 technology staff actively engaged in developing the business requirements for an e-mail  
11 archiving system that contemplate operating protocols for the future system that will  
12 appropriately limit access to each City department's email, and that once the system is selected,  
13 the City Clerk's Office and the Legislative Department information technology staff will remain  
14 actively engaged in developing such operating protocols, specific to the system, that will be  
15 incorporated into a plan to be presented to Council.

16 Section 2. It is hereby determined and declared that DoIT should be provided the balance  
17 of funding, originally subject to a budget proviso imposed by 2009 Green Sheet #134-1-A-1,  
18 appropriated by the City Council in the 2009 Adopted Budget for the Department of Information  
19 Technology. This funding was and is intended to purchase and implement an e-mail archiving  
20 system that includes in its business requirements the capability to incorporate operating protocols  
21 that appropriately limit access to each City department's email, and accommodates each City  
22 department's email records management and archiving needs, as described in Attachment A to  
23 this Ordinance, entitled "Proviso Lift Rationale and Business case for an Enterprise-based email  
24 Archiving and E-discovery Tool."  
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1 Section 3. The restriction imposed by the following budget proviso is removed and is no  
2 longer a restriction for any purpose including for section 1(b) of Ordinance 122863:

Department	Green Sheet	Proviso Description
Department of Information Technology	#134-1-A-1	Of the money appropriated for 2009 for the Department of Information Technology (DoIT) no more than \$94,000 may be spent for software licenses for the proposed email archiving system until authorized by future ordinance. Council anticipates that such authority will not be granted until DoIT and the Law Department:  <ol style="list-style-type: none"><li>1. Demonstrate that the City Clerk's Office and Legislative Department information technology staff have been actively engaged in the development of protocols for the operation of the system; and</li><li>2. Present a plan to the City Council for the operation of the system that appropriately limits access to each City department's email, and accommodates email records management and archiving needs.</li></ol>

14  
15 Section 4. DoIT and the City Attorney's Office shall emphasize the following principles  
16 in developing final protocols for operations and maintenance of the e-mail archiving system:

17 Principle #1: Accountability. The e-mail archiving system should possess adequate  
18 functionality to track the frequency and the scope of archival records accessed and  
19 should be able to generate regularly-scheduled and as-needed reports on data and  
20 records retrieval, including the identity of persons accessing the e-mail archiving  
21 system and the records accessed.

22  
23 Principle #2: Security. The e-mail archiving system: (i) Should possess adequate  
24 functionality to restrict access to departmental and citywide e-mail archives to only  
25 those persons authorized to access and retrieve such information, and, (ii) Should  
26 include structural components which align and facilitate compliance with the City's  
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1 records retention, records management and archival requirements, policies and  
2 procedures.

3 Principle #3: Ownership. DoIT shall manage the operations of the e-mail archiving  
4 system and shall be responsible for performing continued maintenance of the e-mail  
5 archiving system, which may include system reprogramming and de-bugging,  
6 software and operations protocol updates and general system maintenance. The City  
7 Attorney's Office shall set, in cooperation with the City Records Manager and DoIT,  
8 the policies and protocols governing the use of the system.  
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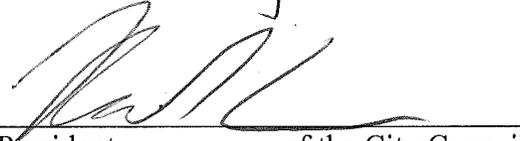
10 Section 5. DoIT and the City Attorney's Office shall base the final system governance  
11 and system operations protocols substantially in the form of the Systems Operations Plan for  
12 Email Archiving – e-Discovery Tool, attached as Attachment B to this ordinance.  
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14 Section 6. Any act consistent with the authority of this ordinance taken after passage of  
15 this ordinance and prior to the effective date of this ordinance is hereby ratified and confirmed.

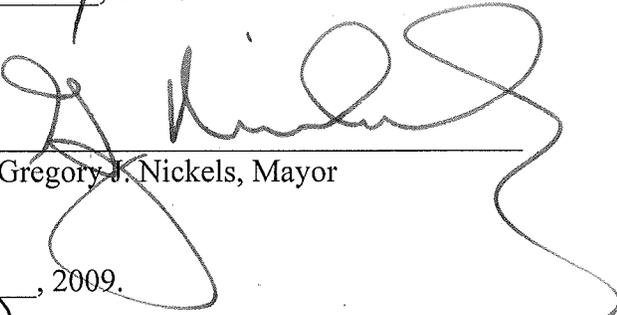
16 Section 7. This ordinance shall take effect and be in force thirty (30) days from and after  
17 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
18 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.  
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1 Passed by the City Council the 6<sup>th</sup> day of July, 2009, and signed by me in open  
2 session in authentication of its passage this 6<sup>th</sup> day of July, 2009.

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5 President \_\_\_\_\_ of the City Council

6 Approved by me this 14<sup>th</sup> day of July, 2009.

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9 \_\_\_\_\_  
10 Gregory J. Nickels, Mayor

11 Filed by me this 14<sup>th</sup> day of July, 2009.

12  
13  
14 (Seal)

15   
16 \_\_\_\_\_  
17 City Clerk

18 Attachments:

- 19 1) Attachment A: Proviso Lift Rationale and Business case for an Enterprise-based email  
20 Archiving and E-discovery Tool  
21 2) Attachment B: Systems Operations Plan for Email Archiving – e-Discovery Tool.  
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# Seattle City Attorney

Thomas A. Carr

Suzanne M. Skinner  
206.684.8228  
suzanne.skinner@seattle.gov

## MEMORANDUM

TO: Council Member Bruce Harrell

FROM: Suzanne Skinner and Erin Devoto

SUBJECT: Proviso Lift Rationale and Business case for an Enterprise based email Archiving and E-discovery Tool

DATE: May 22, 2009

### **1. Current Request to Council--Lift the Proviso on the Archiving/E-discovery Tool.**

Council previously authorized \$900,000 over three years for the purchase and implementation of a City-wide archiving and e-discovery tool. Last fall, we had selected the Computer Associates' tool because it was the only tool that would be compatible with existing GroupWise archives and future Microsoft Outlook archives, once the GEM project was complete. Last fall, Council passed a budget proviso (Green Sheet) requesting that DoIT and Law work with the Legislative Department's IT staff and the City Clerk's office to develop protocols to protect the security of each department's archives. Full fledged protocols cannot be developed until we select and purchase an archiving/e-discovery tool since the protocols will depend on the specific characteristics of the archiving tool. However, in the recently issued Request for Information for archiving tool vendors, with the assistance of Legislative Department staff, DoIT and Law incorporated business requirements that will ensure that the selected tool has the capacity and flexibility for the City to design and install appropriate security and access protocols for the tool before it becomes operational. We will present a plan to Council after the tool is selected and the protocols are developed.

The proposed ordinance before your committee requests Council to lift the proviso to release the money necessary to purchase the archiving/e-discovery tool within the next two months. The operational protocols will be developed for the selected tool in tandem with the vendor, Council IT staff, legislative staff, the City Clerk's office, DoIT security experts and Law.



As explained below, the City needs an archiving/e-discovery tool to store in a central location, comprehensively search, competently retain and turn-over emails in response to litigation and business needs.

## **2. Business Case for an Archiving/E-discovery Tool**

**Background:** The City currently uses Novell's GroupWise as its email system. A user can archive in GroupWise but the archives are not centralized. Departments store their archives on various network drives. As implemented in the City, GroupWise does not allow enterprise level (that is system wide) archiving. Current City records retention protocol makes the user responsible for determining what to archive and archiving in GroupWise is slow and cumbersome—requiring multiple key strokes and patience to save a single email. Moreover, retrieving archived emails in GroupWise is very difficult in response to public disclosure and discovery requests. Archived emails can only be searched by subject line and date, not by content, so again how the user describes the email bears heavily on whether it can be identified as relevant in response to a document search.

When the City moves to Outlook, an individual user will be able to archive an email with fewer keystrokes, but Outlook is not a system wide archiving solution. Significantly, Outlook does not and cannot solve the greatest deficiencies the City faces in handling its emails currently: filtering of emails, centralized storage of emails, de-duplication of stored emails, comprehensive searching of emails, and selective retention of emails. These are the reasons that DoIT and Law have jointly sought permission for an enterprise archiving/e-discovery tool.

Enterprise archiving tools and record retention practices are becoming standard business practice for companies—and increasingly are becoming standard practice for the state and local governments. Washington State, King County and even Benton County are implementing archiving/records management programs targeting electronic records to meet their obligations under the Records Retention Act, the Public Records Act and the increasing demands in litigation for electronic records.

### **The Business Case: The Legal Drivers for an Enterprise Archiving /E-discovery Tool**

- All city departments are subject to the Records Retention Act, Ch. 40.14 RCW, and are required to retain emails, and other electronic records, containing significant information related to the transaction of city business. The State Archivist will likely adopt a rule requiring governments to save emails that are official records in native format—the only way to do that is by archiving them. The City Records Retention Manager, Jennifer Winkler, has established schedules for retaining official records, including emails. Requirements for retaining records vary by department and by type of user—making training and a simple process for archiving imperative. Since at least 95 percent of all city records are electronic, and rarely are reduced to hard



copy, all city departments need comprehensive, efficient and searchable archiving systems and practices that are user friendly.

- City departments currently respond to an ever increasing number of Public Records Act requests. As most city documents are electronic, those requests are increasingly for electronic documents—especially emails. City employees save emails either by archiving them to the user’s computer, converting them to a WORD document and saving it, or printing the email out. (If the Archivist ultimately mandates native format retention of official documents, emails that are official records will have to be archived because only archiving uniquely saves the property data associated with an email). Searching for responsive emails has compounded the time employees spend responding to requests because each drive of each computer must be searched—usually by the user. Without an archiving system, employees have no means to weed out duplicates. Fifteen employees can end up using City time to search for and retrieve fifteen copies of an identical email—with an archiving tool, one authorized operator could run the search department/group/city-wide, as the search parameters warrant, eliminate duplicates and improve compliance and responsiveness, using a fraction of the resources the City now devotes to public disclosure.
- The prevalence of electronic documents in the workplace has irrevocably changed the litigation process. Discovery, the process whereby plaintiffs or defendants demand City records to prepare for trial, increasingly involves electronic documents—especially emails. Because archiving of emails is cumbersome, the Law Department currently instigates litigation holds, suspending the automatic 45 day delete rule for emails, to allow users who have information relevant to a lawsuit time to isolate responsive emails. Moreover, courts increasingly require that the City produce responsive emails in “native format”—which means that the email must be archived and produced with its associated metadata. Metadata generally refers to the properties data (e.g., sender, recipient, time) associated with an email.
- The state, King County and smaller governments in the state are in the process of implementing high grade archiving and records management systems to address the requirements of electronic discovery, thereby avoiding the costs of recreating electronic records from back-up tapes that are kept temporarily for disaster recovery purposes.
- Consistent with state approved retention schedules, all city departments may destroy written records and archived electronic records when retention periods elapse. Timely destruction of records with no retention value eliminates the cost of further storage, and eliminates the continued obligation and expense of searching those records in response to public disclosure and litigation requests. As long as records exist, the City may be obligated to search for and



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produce all existing, responsive electronic (and written) records even if the applicable retention period has elapsed. Comprehensive, city wide record destruction policies will reduce storage costs, administrative search costs and legal exposure.

- The City needs an archiving/ediscovery tool to meet the increasing demands of electronic discovery. Since most City documents are now electronic, the Law Department has seen a marked increase in discovery requests (and public records requests linked to litigation) for emails. The federal courts have adopted demanding rules regarding preservation and production of electronic records in "native format." Washington courts are following suit. Efficient, consistent, and comprehensive archiving of electronic public records across City departments with an archiving tool that also searches and organizes those archives to meet discovery requirements is the only way the City can avoid production of back-up tapes, penalties and court sanctions for failure to produce records.
- DoIT, Law and certain City departments have implemented litigation holds for electronic records for selected lawsuits. On-going, litigation hold archiving now occurs user-by-user. Because GroupWise archiving is time consuming and cumbersome (requiring several steps for each document saved), individuals have made costly mistakes—requiring the City to restore backup tapes to reconstruct emails that should have been properly archived without adequate search capabilities and fail-safes. It costs DoIT \$6,600 per user to restore a 45 day window of emails from backup tapes. The cost increases for each 45 day "window" required to be restored, and each user whose mailbox must be restored. It is also important to note that their costs only cover restoration, and do not pay for staff time to search through the restored data. A key purpose of the archiving system would be to avoid any need to search back-up tapes.
- The costs of electronic discovery are considerable. In the Sonics litigation, the City has had to install a litigation hold to capture emails that were not necessarily archived because they fell below Records Retention Act standards but were potentially relevant to the lawsuit. K& L Gates charged the City roughly \$223,000 for collating, digitalizing and indexing the City's emails and other documents in electronic form. An archiving tool is the first step to the City bringing comparable records management technology in-house, with obvious long term savings considering the number of significant lawsuits pending against the City at any time.

Summary: The City needs to implement a city-wide archiving/electronic discovery solution (a combination of technology, protocols, and continued and comprehensive training) for all electronic documents to meet its legal requirements (litigation, Records



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Retention Act and Public Records Act); and department business requirements. Because of its inherent volatility and increasing importance, the City should begin with email.

cc: Dwight Dively, Director of Finance Department  
Amy Doerzbacher, Technology Planning and Oversight Director  
Claire Foster, Project Manager for Email Archive Project  
Kieu-Anh King, Legislative Analyst  
Bill Schrier, Chief Technology Officer & Director  
Vinh Tang, Legislative Assistant to Council Member Harrell  
Jennifer Winkler, City Records Manager



## Systems Operations Plan for Email Archiving- e-Discovery Tool

### USE OF SYSTEM

Individual users will use this system for archiving emails in compliance with retention laws. Law Department will use this system to assist in litigation. Public Disclosure Officers will use this system to assist in responding to public disclosure requests.

### OWNERSHIP

The Law Department will own and manage the list of users who have access to the system and the extent of their access.

### ACCESS

**Departmental Access** – The database system will be set up such that only a small number of staff can search the database. In most cases those staff will be able to perform searches in their own department, but not to retrieve or view the email records that are responsive to a search. Access to retrieve and view email records will be limited to an even smaller number of staff.

**Citywide Access** – The database system will be set up such that only an Assistant City Attorney or City Attorney legal staff will be able to use the system to perform searches on more than one department, except for selected IT staff (described below). As above, a small number of staff will have “search” authority and an even smaller number of staff will have “retrieve” authority.

Specifically, the Law Department expects four distinct groups of system users:

1. Individual Users: Users will only have access to their own archived emails. An individual user can not access the archives of another employee unless that employee grants permission.
2. Law Department: The Assistant City Attorney and legal staff assigned to a particular lawsuit will have access to archives of the departments associated with that lawsuit.
3. Public Disclosure Officers: Each department will determine whether its PDO will have access to that department’s archives.
4. IT System Administrators: A small and finite group of city-wide system administrators will have access to employee archives, but will not be able to

do so unless they reset the employee's password. The employee will have to reset their password to regain access.

### PROTOCOLS

Regarding the use of this new database system by anyone other than an individual user, the Law Department will establish specific protocols governing when and how searches may be conducted. The Law Department anticipates two programmatic situations and one administrative situation during which the system will be used:

1. Litigation: The Law Department will authorize attorneys and paralegals to search the archives in response to or in anticipation of a lawsuit (e.g., preparing a complaint or an answer to a complaint, responding to discovery requests or preparing a department witness for deposition or trial). Consistent with its current practice, Law notifies all departments of lawsuits and works with designated employees to defend the department. Searches for relevant records, both hard copy and electronic, are done with the assistance of the impacted department. Searches of relevant departmental archives will only occur with notice to appropriate departmental personnel.
2. Public Disclosure Requests: The Law Department will work with the three branches of government to determine who (e.g., PDO's) will have access to searches and who will have permission to view the searches on a departmental level. Authority will be granted department by department.
3. IT System: The Chief Technology Officer and Chief Information Security Officer for the City will determine which level of IT staff will have system administration rights.

### MONITORING

The system will automatically log every access to the archive system. All archiving tools come with a set of standard audit reports and the ability to develop custom audit reports. These reports will show who conducted searches on whom and what was in the search terms.

### SYSTEM SECURITY

Any tool selected will be required to provide safeguards to prevent unauthorized access to archives. All security provisions in the system will be reviewed by the Chief Information Security Officer to ensure that they meet the standards in existing City security policies.

## OVERALL MANAGEMENT

### **RESPONSIBILITY**

1. DoIT will install and manage operation of the tool.
2. DoIT will manage system administration, daily operation and installation of upgrades.
3. Law, together with the City Records Manager, will ensure that the retention and legal use policies for the tool meet all applicable legal requirements, including compliance with the Records Retention Act, the Public Records Act and discovery requirements for litigation.
4. Sufficient coordination and overlap will exist between the "System Administrator" and "System Manager" to ensure that both technical and functional requirements of the system are met. *(Both roles defined below.)*

### **GOVERNANCE CHARTER AND STEERING COMMITTEE COMPOSITION**

1. DoIT and Law contacted key City departments, including SPD, SCL, SMC and the Council, to participate in formulating the business and technical requirements for the Request for Information (RFI) used to solicit archiving-eDiscovery tool vendors.
2. The above-referenced departments, and others that have specialized retention and access requirements for email, will be members of the Steering Committee; the Steering Committee will approve protocols set by the Law Department related to access and governance of the tool.
3. The Steering Committee will issue final Systems Operation Procedures and a Governance Charter no later than December 31, 2009, to set security and operational protocols for the selected tool, after which it will no longer meet.
4. Upon completion of the final Systems Operation Procedures and Governance Charter, the Steering Committee shall be reconstituted as the System Operations and Governance Committee, maintaining the same membership. The System Operations and Governance Committee will meet regularly to address any functional, operational and policy issues related to the E-mail Archiving System, no fewer than two times per year.

### **FINANCIAL RESPONSIBILITY**

1. The purchase of licenses and hardware for the next two years will be paid from the existing E-mail Archiving System appropriation in the 2009 Adopted Budget of DoIT.
2. Annual maintenance fees will be paid by DoIT and charged to each department based an appropriate portion of total licensed users.

3. Replacement or expanded hardware will be requested as a part of DoIT's annual operating budget request.
4. Replacement or expanded software will be requested jointly by Law and DoIT as a part of DoIT's annual operating budget request.
5. Maintenance and operations staffing and expenses, as outlined in the Maintenance and Operations section below, will be absorbed by existing staff in DoIT.
6. Oversight, monitoring and training staffing and expenses, as outlined in the Oversight and Monitoring section below, will be absorbed to the extent possible by existing staff in Law and the Office of Records Management.

#### **OVERSIGHT**

1. The Law department will provide oversight and monitor access privileges to the system.
2. The City Records Manager will provide record retention training for all users of the archive system and will set protocols in compliance with the Record Retention Act including:
  - I. Determination of automated retention schedule, function and processes.
  - II. Authorization of purge activities in accordance with the governance and operations charter.
3. The Law Department shall designate a System Manager to coordinate changes to user permissions and access control with the System Administrator.

#### **MAINTENANCE AND OPERATIONS**

1. DoIT will provide staff for Operations and Maintenance of the system.
2. DoIT will designate a System Administrator and backup.
3. The System Administrator will be responsible for operation of the following key functions:
  - a. User permissions and access control
  - b. Daily backup
  - c. Ensuring automated processes conform to functional requirements
  - d. System maintenance and operation
4. The System Administrator will attend Steering Group meetings and provide guidance and consultation related to systems operations.

**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
DOIT	Suzanne Skinner / 684-8228	

**Legislation Title:**

AN ORDINANCE related to the City's computer software; removing a budget proviso that restricts an appropriation in the 2009 Adopted Budget of the Department of Information Technology (DoIT); authorizing expenditure of the appropriation for software licenses and related expenses for an e-mail archiving system; and establishing principles for system operations.

• **Summary of the Legislation:**

This ordinance would lift a budget proviso to allow moneys that were previously appropriated in the 2009 budget to provide for an e-mail archiving system.

- **Background:** In the 2009 budget the Council placed a proviso on the BCL's for the Department of Information Technology (DoIT) that restricted spending on an e-mail archiving system to \$94, 000, until certain steps were taken by DoIT and the Law Department. Those steps were first that Legislative branch staff be involved in development of protocols for the system and second that a plan for the system's operation be presented to the Council. DoIT and the City Attorney's Office have actively engaged the City Clerk's Office and the Legislative Department's information technology staff in the development of business requirements for the RFI to ensure that the e-mail archiving system selected will have the capacity and flexibility to implement operating protocols that serve the City Council's and the City's business and legal needs. DoIT and the Law Department, in cooperation with the City Clerk's Office and the Legislative Department's information technology staff, will present Council with a plan that incorporates the operating protocols, once they are developed, that are specifically adapted to the future e-mail archiving system.

- *Please check one of the following:*

**This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

**This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

This legislation does not change the appropriation levels of the BCLs that support DOIT, but the lifting of the proviso restriction will allow more funding from the existing appropriations for the e-mail archival system.



- **What is the financial cost of not implementing the legislation?** *(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)*

Without this legislation, the City will not be able to purchase an archiving tool. The short term consequence will be that DoIT will spend between \$200-\$400,000 to purchase additional storage to move existing archives in the next few months. An archiving tool removes duplicate emails and compresses data, reducing storage requirements. The longer term consequence will be that City departments will not have an expeditious and effective archiving system which will impede the Law Department's ability to search for and produce relevant emails in response to litigation. Without an archiving tool (which will incorporate an electronic discovery component), the City will incur higher personnel costs from non-automated searches of dispersed archives on department networks and computers. Less effective and expeditious searching of archives may have other more serious litigation consequences.

- **Does this legislation affect any departments besides the originating department?** • *If so, please list the affected department(s), the nature of the impact (financial, operational, etc., and indicate which staff members in the other department(s) are aware of this Bill.*

This legislation will affect all City departments' ability to archive e-mail and manage their litigation.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

Not applicable.

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

No.

- **Other Issues** *(including long-term implications of the legislation):*

**Please list attachments to the fiscal note below:**

None





City of Seattle

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SEATTLE CITY COUNCIL

Date: 01 July 2009

To: Judith Pippin, City Clerk

From: Kieu-Anh King, Council Central Staff

Re: CB No. 116561 – E-mail Archiving System Proviso Lift Ordinance

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Please accept this statement in place of the crossed-out "Reviewer Comments" section of the yellow cover sheet for Council Bill 116561.

Version #6 of the council bill incorporates pre-referral changes to the ordinance and adds a new attachment, labeled Attachment A. Dated 12 June 2009.

Version #7a of the council bill was substituted into the legislation at the Energy & Technology Committee on 17 June 2009. This version incorporates technical and policy amendments, plus a reference to a new Attachment B. Two motions were passed by Committee – one to substitute in Version #7a of the ordinance and one to add a new Attachment B. Dated 17 June 2009.

The Committee made a two-part motion at its regular meeting on 01 July 2009: to substitute Version #7 of Attachment B to the ordinance and to amend the ordinance to incorporate the updated reference to Attachment B. Dated 01 July 2009.

*An equal opportunity employer*

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# Seattle City Attorney

Thomas A. Carr

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May 20, 2009

Honorable Richard Conlin  
President  
Honorable Bruce Harrell  
Chair Energy & Technology Committee  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Conlin and Council Member Harrell:

I am pleased to transmit the attached proposed Council Bill that allows for funds to be expended to purchase and implement an e-mail archival system, with an electronic discovery component, to serve the business and legal needs of the City. This legislation will remove a proviso from the 2009 budget that limited spending on an e-mail archival system to \$94,000. The proviso envisioned that the Council would remove this restriction once the Department of Information Technology (DoIT) and the Law Department had worked with the City Clerk's office and the Legislative branch's information technology staff to develop appropriate access and security protocols and an operational plan for an e-mail archival system. The proviso assumed that the City would purchase the archiving tool developed by Computer Associates. At that time, the Computer Associates product was the only one that could exist simultaneously in the GroupWise and Outlook environment. Since the proviso was adopted, technology improvements now allow Law and DoIT to consider vendors other than Computer Associates.

It therefore became impossible to design operating protocols for an archiving tool when the City had not yet selected a tool. To meet the spirit of the proviso, DoIT, Law, the City Clerk's office and the Legislative branch's information technology staff have developed business requirements for the recently issued Request for Information for the archiving system to ensure that the system selected has the capacity and flexibility necessary to support appropriate access and security protocols. In order to take the next step of selecting an archiving system and contracting with a vendor, DoIT and Law now ask Council to lift the funding restriction by passing the enclosed ordinance.

Once the system is selected, DoIT and Law will continue to work with the City Clerk's Office and the Legislative branch's information technology staff to design and implement access and security protocols specific to the archiving system that will serve the legal and business needs of the City, and



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will set appropriate access and security protocols. The e-mail archival system will serve the, technical, legal and business needs of the City, including responding to litigation discovery requests which increasingly involve e-mails.

Thank you for your consideration of this legislation. Should you have questions, please contact Suzanne Skinner, Civil Division Director, City Attorney's Office at 684-8228.

Sincerely,



Thomas A. Carr  
Seattle City Attorney

cc: Honorable Members of the Seattle City Council  
Dwight Dively, Director of Finance  
Erin Devoto, Deputy Director of Department of Information  
Suzanne Skinner, Chief Civil Attorney of the City Attorney's Office



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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242295  
CITY OF SEATTLE, CLERKS OFFICE

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

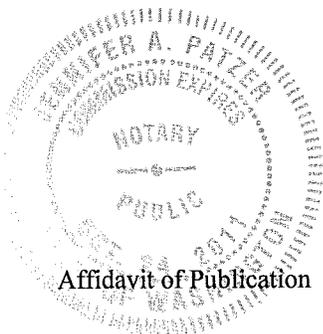
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123031-123033 TITLE

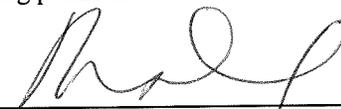
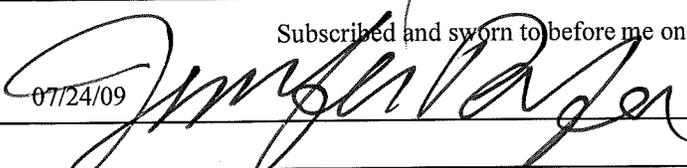
was published on

07/24/09

The amount of the fee charged for the foregoing publication is the sum of \$ 49.53, which amount has been paid in full.



Affidavit of Publication

  
\_\_\_\_\_  
Subscribed and sworn to before me on  
07/24/09   
\_\_\_\_\_  
Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

### TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on July 6, 2009, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.ci.seattle.wa.us>. For further

information, contact the Seattle City Clerk at 684-8344.

#### ORDINANCE NO. 123033

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

#### ORDINANCE NO. 123032

AN ORDINANCE relating to the City Light Department, repealing Ordinance 122336, and establishing a Rates Advisory Committee and defining its role and composition.

#### ORDINANCE NO. 123031

AN ORDINANCE related to the City's computer software; removing a budget proviso that restricts an appropriation in the 2009 Adopted Budget of the Department of Information Technology (DoIT); authorizing expenditure of the appropriation for software licenses and related expenses for an e-mail archiving system; and establishing principles for system operations.

Publication ordered by JUDITH PIPPIN,  
City Clerk

Date of publication in the Seattle Daily  
Journal of Commerce, July 24, 2009.

7/24(242295)



1 department's email, preserve the privacy of sensitive records, and install appropriate  
2 security measures; and

3 WHEREAS, DoIT and the Law Department, in cooperation with the City Clerk's Office and  
4 the Legislative Department's information technology staff, will present Council with a  
5 plan that incorporates operating protocols, once they are developed, that are specifically  
6 adapted to the future e-mail archiving system; NOW, THEREFORE,

7 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

8 Section 1. It is hereby determined and declared that DoIT and the City Attorney's Office  
9 have been keeping the City Clerk's Office and the Legislative Department's information  
10 technology staff actively engaged in developing the business requirements for an e-mail  
11 archiving system that contemplate operating protocols for the future system that will  
12 appropriately limit access to each City department's email, and that once the system is selected,  
13 the City Clerk's Office and the Legislative Department information technology staff will remain  
14 actively engaged in developing such operating protocols, specific to the system, that will be  
15 incorporated into a plan to be presented to Council.

16 Section 2. It is hereby determined and declared that DoIT should be provided the balance  
17 of funding, originally subject to a budget proviso imposed by 2009Green Sheet #134-1-A-1,  
18 appropriated by the City Council in the 2009 Adopted Budget for the Department of Information  
19 Technology. This funding was and is intended to purchase and implement an e-mail archiving  
20 system that includes in its business requirements the capability to incorporate operating protocols  
21 that appropriately limit access to each City department's email, and accommodates each City  
22 department's email records management and archiving needs, as described in Attachment A to  
23 this Ordinance, entitled "Proviso Lift Rationale and Business case for an Enterprise-based email  
24 Archiving and E-discovery Tool."  
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Section 3. The restriction imposed by the following budget proviso is removed and is no longer a restriction for any purpose including for section 1(b) of Ordinance 122863:

Department	Green Sheet	Proviso Description
Department of Information Technology	#134-1-A-1	Of the money appropriated for 2009 for the Department of Information Technology (DoIT) no more than \$94,000 may be spent for software licenses for the proposed email archiving system until authorized by future ordinance. Council anticipates that such authority will not be granted until DoIT and the Law Department:  <ol style="list-style-type: none"><li>1. Demonstrate that the City Clerk's Office and Legislative Department information technology staff have been actively engaged in the development of protocols for the operation of the system; and</li><li>2. Present a plan to the City Council for the operation of the system that appropriately limits access to each City department's email, and accommodates email records management and archiving needs.</li></ol>

Section 4. It is hereby determined and declared that DoIT and the City Attorney's Office shall emphasize the following principles in developing protocols for operations and maintenance of the e-mail archiving system:

Principle #1: Accountability. The e-mail archiving system should possess adequate functionality to track the frequency and the scope of archival records accessed and should be able to generate regularly-scheduled and as-needed reports on data and records retrieval, including the identity of persons accessing the e-mail archiving system and the records accessed.

Principle #2: Security. The e-mail archiving system: (i) Should possess adequate functionality to restrict access to departmental and citywide e-mail archives to only those persons authorized to access and retrieve such information, and, (ii) Should



1 include structural components which align and facilitate compliance with the City's  
2 records retention, records management and archival requirements, policies and  
3 procedures.

4 Principle #3: Ownership. DoIT shall manage the operations of the e-mail archiving  
5 system and shall be responsible for performing continued maintenance of the e-mail  
6 archiving system, which may include system reprogramming and de-bugging,  
7 software and operations protocol updates and general system maintenance. The City  
8 Attorney's Office shall set, in cooperation with the City Records Manager and DoIT,  
9 the policies and protocols governing the use of the system.  
10

11 Section 6. Any act consistent with the authority of this ordinance taken after passage of  
12 this ordinance and prior to the effective date of this ordinance is hereby ratified and confirmed.  
13

14 Section 7. This ordinance shall take effect and be in force thirty (30) days from and after  
15 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
16 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.  
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1 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2009, and signed by me in open  
2 session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2009.

3  
4 \_\_\_\_\_  
5 President \_\_\_\_\_ of the City Council

6 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2009.

7  
8 \_\_\_\_\_  
9 Gregory J. Nickels, Mayor

10 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2009.

11  
12 \_\_\_\_\_  
13 City Clerk

14 (Seal)

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16  
17 Attachment A: Proviso Lift Rationale and Business case for an Enterprise-based email Archiving  
18 and E-discovery Tool



**ORDINANCE**

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2  
3 AN ORDINANCE related to the City's computer software; removing a budget proviso that  
4 restricts an appropriation in the 2009 Adopted Budget of the Department of Information  
5 Technology (DoIT); authorizing expenditure of the appropriation for software licenses  
6 and related expenses for an e-mail archiving system; and establishing principles for  
7 system operations.

8 WHEREAS, purchase and implementation of an email archiving system will serve the legal and  
9 business needs of the City, including responding to litigation discovery requests which  
10 increasingly involve e-mails; and

11 WHEREAS, purchase and implementation of an email archiving system will facilitate the  
12 DoIT's migration of the City's emailing system for its 11,000 employees from Novell  
13 GroupWise to Microsoft Exchange/Outlook by reducing the amount of required storage;  
14 and

15 WHEREAS, the 2009 Adopted Budget and 2010 Endorsed Budget provide \$900,000 over the  
16 2009-2010 time period for the purchase and implementation of a City-wide email  
17 archiving system; and

18 WHEREAS, in adopting the 2009 budget, the City Council passed Green Sheet 134-1-A-1,  
19 which includes a budget proviso restricting the expenditure of the \$900,000 appropriation  
20 in DoIT's 2009 Adopted Budget for purchase and implementation of an e-mail archiving  
21 system; and

22 WHEREAS, the City Council stated its intention to lift the proviso provided that DoIT and the  
23 City Attorney's Office demonstrated to the City Council that the City Clerk's Office and  
24 the Legislative Department's information technology staff were actively engaged in the  
25 development of the protocols for operation of an e-mail archiving system; and

26 WHEREAS, the City has issued a request for information (RFI) to potential e-mail archiving  
27 system vendors that includes business requirements, formulated by DoIT, the City  
28 Attorney's Office, the City Clerk's Office and the Legislative Department's information  
29 technology staff, to ensure that the e-mail archiving system selected will have the  
30 capacity and flexibility to implement operating protocols that serve the City Council's  
31 and the City's business and legal needs; and

32 WHEREAS, once an archiving tool is selected that meets the City's business and legal  
33 requirements, DoIT and the City Attorney's Office will actively engage the City Clerk's  
34 Office and the Legislative Department's information technology staff in developing  
35 protocols for that archiving system that will serve the City Council's and the City's  
36 business and legal needs, including protocols that appropriately limit access to each City

1 department's email, preserve the privacy of sensitive records, and install appropriate  
2 security measures; and

3 WHEREAS, DoIT and the Law Department, in cooperation with the City Clerk's Office and  
4 the Legislative Department's information technology staff, will present Council with a  
5 plan that incorporates operating protocols, once they are developed, that are specifically  
6 adapted to the future e-mail archiving system; NOW, THEREFORE,

7 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

8 Section 1. It is hereby determined and declared that DoIT and the City Attorney's Office  
9 have been keeping the City Clerk's Office and the Legislative Department's information  
10 technology staff actively engaged in developing the business requirements for an e-mail  
11 archiving system that contemplate operating protocols for the future system that will  
12 appropriately limit access to each City department's email, and that once the system is selected,  
13 the City Clerk's Office and the Legislative Department information technology staff will remain  
14 actively engaged in developing such operating protocols, specific to the system, that will be  
15 incorporated into a plan to be presented to Council.

16 Section 2. It is hereby determined and declared that DoIT should be provided the balance  
17 of funding, originally subject to a budget proviso imposed by 2009 Green Sheet #134-1-A-1,  
18 appropriated by the City Council in the 2009 Adopted Budget for the Department of Information  
19 Technology. This funding was and is intended to purchase and implement an e-mail archiving  
20 system that includes in its business requirements the capability to incorporate operating protocols  
21 that appropriately limit access to each City department's email, and accommodates each City  
22 department's email records management and archiving needs, as described in Attachment A to  
23 this Ordinance, entitled "Proviso Lift Rationale and Business case for an Enterprise-based email  
24 Archiving and E-discovery Tool."  
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28

Section 3. The restriction imposed by the following budget proviso is removed and is no longer a restriction for any purpose including for section 1(b) of Ordinance 122863:

Department	Green Sheet	Proviso Description
Department of Information Technology	#134-1-A-1	Of the money appropriated for 2009 for the Department of Information Technology (DoIT) no more than \$94,000 may be spent for software licenses for the proposed email archiving system until authorized by future ordinance. Council anticipates that such authority will not be granted until DoIT and the Law Department:  <ol style="list-style-type: none"><li>1. Demonstrate that the City Clerk's Office and Legislative Department information technology staff have been actively engaged in the development of protocols for the operation of the system; and</li><li>2. Present a plan to the City Council for the operation of the system that appropriately limits access to each City department's email, and accommodates email records management and archiving needs.</li></ol>

Section 4. DoIT and the City Attorney's Office shall emphasize the following principles in developing final protocols for operations and maintenance of the e-mail archiving system:

Principle #1: Accountability. The e-mail archiving system should possess adequate functionality to track the frequency and the scope of archival records accessed and should be able to generate regularly-scheduled and as-needed reports on data and records retrieval, including the identity of persons accessing the e-mail archiving system and the records accessed.

Principle #2: Security. The e-mail archiving system: (i) Should possess adequate functionality to restrict access to departmental and citywide e-mail archives to only those persons authorized to access and retrieve such information, and, (ii) Should include structural components which align and facilitate compliance with the City's

1 records retention, records management and archival requirements, policies and  
2 procedures.

3 Principle #3: Ownership. DoIT shall manage the operations of the e-mail archiving  
4 system and shall be responsible for performing continued maintenance of the e-mail  
5 archiving system, which may include system reprogramming and de-bugging,  
6 software and operations protocol updates and general system maintenance. The City  
7 Attorney's Office shall set, in cooperation with the City Records Manager and DoIT,  
8 the policies and protocols governing the use of the system.

9  
10 Section 5. DoIT and the City Attorney's Office shall base the final system governance  
11 and system operations protocols substantially in the form of the Draft System Governance &  
12 System Operations Protocols attached as Attachment B to this ordinance.

13  
14 Section 6. Any act consistent with the authority of this ordinance taken after passage of  
15 this ordinance and prior to the effective date of this ordinance is hereby ratified and confirmed.

16 Section 7. This ordinance shall take effect and be in force thirty (30) days from and after  
17 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
18 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.  
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1 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2009, and signed by me in open  
2 session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2009.

3  
4 \_\_\_\_\_  
5 President \_\_\_\_\_ of the City Council

6 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2009.

7  
8 \_\_\_\_\_  
9 Gregory J. Nickels, Mayor

10 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2009.

11  
12 \_\_\_\_\_  
13 City Clerk

14 (Seal)

15  
16 Attachments:

- 17  
18 1) Attachment A: Proviso Lift Rationale and Business case for an Enterprise-based email  
19 Archiving and E-discovery Tool  
20 2) Attachment B: Draft System Governance & System Operations Protocols  
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**E-MAIL ARCHIVING SYSTEM**  
**Draft System Governance & System Operations Protocols**  
**16 June 2009**

**ITEM #A: OVERALL RESPONSIBILITY**

- (1) The Email archiving system should be owned and operated jointly by the Department of Information Technology (DoIT) and the Office of the City Attorney (Law) but provide for the business needs and legal interests of all City departments.
- (2) DoIT should provide for system administration and daily operation.
- (3) Law should provide system management and ensure the policies governing the function of the system meet applicable legal and archival requirements of all users.
- (4) Sufficient coordination and overlap should exist between the "System Administrator" and "System Manager" to ensure that both technical and functional requirements of the system are met. (*Both roles defined below.*)

**ITEM #B: GOVERNANCE**

- (1) Key City departments should be invited to participate in a system Steering Committee for its operation and governance.  
The Steering Committee should include departments that have (a) significant user counts, (b) frequent litigation or (c) specific needs that may differ from those of the Executive and/or Law, and should include, at minimum, the following departments: DoIT, Law, the Seattle Police Department, the Seattle Fire Department, the Legislative Department, the Seattle Municipal Court, the Seattle Public Utilities, Seattle City Light and the Department of Planning and Development.
- (2) The Steering Committee should prepare and publish a System Operation Charter and Governance Document no later than December 31, 2009.
- (3) The Steering Committee should meet regularly to discuss and resolve functional and operational changes and emerging issues.

**ITEM #C: FINANCIAL RESPONSIBILITY**

- (1) The purchase of licenses and hardware should be paid from the existing E-mail Archiving System appropriation in the 2009 Adopted Budget of DoIT.
- (2) Annual maintenance fees should be paid by DoIT and charged to each department based upon their proportion of total licensed users.
- (3) Replacement or expanded hardware should be requested as a part of DoIT's annual operating budget request.
- (4) Replacement or expanded software should be requested jointly by Law and DoIT as a part of DoIT's annual operating budget request.
- (5) Maintenance and operations staffing and expenses, as outlined in the Maintenance and Operations section below, should be absorbed by existing staff in DoIT.

- (6) Oversight, monitoring and training staffing and expenses, as outlined in the Oversight and Monitoring section below should be absorbed to the extent possible by existing staff in Law and the Office of Records Management.

**ITEM #D: MAINTENANCE AND OPERATIONS**

- (1) DoIT should provide staff for Operations and Maintenance of the system.
- (2) DoIT should designate a suitable individual and one backup as the System Administrator.
- (3) The System Administrator should be responsible for operation and management of the following key functions:
  - a. User permissions and access control.
  - b. Daily backup.
  - c. Ensuring automated processes conform to functional requirements.
  - d. System maintenance and operation.
- (4) The System Administrator should attend Steering Group meetings and provide guidance and consultation related to systems operations.

**ITEM #E: OVERSIGHT AND MONITORING**

- (1) The Law department should provide oversight and monitoring the litigation management portion of the system.
- (2) The City Records Manager should provide oversight, monitoring and training for all users for use of the archiving system in compliance with the Record Retention Act, including:
  - i. Entry, Edit, and Audit of automated retention schedule, function and processes.
  - ii. Performing any purge activities as authorized under the governance and operations charter.
- (3) The Law department, in consultation with the City Records Manager, shall designate a suitable individual as System Manager to coordinate changes to user permissions and access control with the System Administrator
- (4) The System Manager should be responsible for operation and management of the system consistent with business and legal requirements and for preparation of regular and ad-hoc reports on system access and queries.
- (5) The System Manager should attend meetings of the steering committee and provide guidance on legal and discovery issues related to the system.